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| APPLICATION NO.                  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.     |
|----------------------------------|-------------|----------------------|---------------------|----------------------|
| 10/612,211                       | 07/02/2003  | Marc Van Damme       | 223328              | 5720                 |
| 23460                            | 7590        | 09/08/2005           | EXAMINER            |                      |
| LEYDIG VOIT & MAYER, LTD         |             |                      |                     | SCHILLING, RICHARD L |
| TWO PRUDENTIAL PLAZA, SUITE 4900 |             |                      |                     |                      |
| 180 NORTH STETSON AVENUE         |             |                      |                     |                      |
| CHICAGO, IL 60601-6780           |             |                      |                     |                      |
|                                  |             |                      |                     | ART UNIT             |
|                                  |             |                      |                     | PAPER NUMBER         |
|                                  |             |                      |                     | 1752                 |

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |   |                         |  |
|------------------------------|---|-------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>                  | <b>Applicant(s)</b>     |  |
|                              | 10/612,211                              | VAN DAMME ET AL.        |  |
|                              | <b>Examiner</b><br>Richard L. Schilling | <b>Art Unit</b><br>1752 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 June 2005.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6-03-05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-14 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tomita et al. Tomita et al. ( see particularly col.1, line 57-col.2, line33; col.3, lines20-35; col. 15, lines40-67; col. 11, lines 65-67; col. 19, lines 25-40; col. 20, lines 40-67; col. 25, lines11-67; col. 26, lines 52-55; col. 52, lines 12-20; ex. 1-6 ) discloses positive heat sensitive elements with Al supports having Ra values of .1-.5 with .3 used in ex. 1-6. Al oxide is disclosed at 1-10 g/m<sup>2</sup> preferably at 1.5-7 g/m<sup>2</sup>. The heat sensitive layers have dissolution inhibitors and siloxane polymers in ex. 1-6. Tomita et al. discloses that it is known in the art to use thicker Al oxide layers to reduce heat diffusion into nonimage areas ( see col. 1-3 ). If Tomita et al. do not anticipate the instant claims, then it would be at least obvious to one

skilled in the art to use oxide layer thicknesses at middle and upper values of the disclosed ranges particularly for reduced heat diffusion into nonimage areas.

2. Claims 1-3 and 9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sawada et al. '305. Sawada et al. ( see para. 16-19,56,70-72,87 ) discloses elements with positive working heat sensitive layers on Al supports with Ra values less than .5 and Al oxide layers at 1-10 g/m<sup>2</sup>, preferably at 1.5-7 g/m<sup>2</sup>. If Sawada et al. do not anticipate the instant claims, then it would be obvious to use the middle and upper portions of the preferred range for Al oxide disclosed in Sawada et al.

3. The prior art cited by applicants has been considered. Hotta is cited of interest as disclosing heat sensitive elements with Al supports with Ra at .2-.7 and Al oxide at .5-20, preferably 1.5-6 g/m<sup>2</sup>. The rejection using Urano et al. and Inoue et al. is withdrawn as being cumulative.

4. Any inquiry concerning this communication should be directed to Richard L. Schilling at telephone number 571-272-1335.

RICHARD L. SCHILLING  
PRIMARY EXAMINER  
GROUP 1100 1712

